

# **UNAPPROVED**

## **Inland Wetlands & Watercourses Commission - June 17, 2015**

### **Public Hearing/Public Meeting,**

The Inland Wetlands & Watercourses Commission held a Public Meeting on Wednesday July 15, 2015 at 7:30 P.M. in the Town Council Chambers, Town Hall, 505 Silas Deane Highway, Wethersfield, CT 06109.

Members Present:

Lou Sanzaro, Chairman  
James Kulpa  
Lew Michaels  
David Ambrose  
Lawrence Buck  
Brian DiCoccio  
Matt Zagaja  
Dave Herold

Also Present: Mike Turner, Town Engineer/ Acting IWWC Agent

Approximately 18 Persons in the audience

Chairman Sanzaro opened the meeting at 7:35 pm

### **GENERAL COMMENTS**

### **PUBLIC HEARING**

**Application No. 658-15 E/S Whippoorwill Estates LLC, Lots 3-10 Whippoorwill Way & Lots 11-12 Old Reservoir Road, Parcels 052007, 052008, 052009, 052010, 052011, 052012, 052013, 052014, 053031 and 053032,** Application to conduct regulated activities within regulated areas with respect to completion of Whippoorwill Way, completion of installation of utilities and single family residential lot construction related to 10 lots within an approved residential subdivision within regulated areas. Also seeking Erosion and Sedimentation control certification.

Chairman Sanzaro read the legal notice and opened the Public hearing at 7:35 pm. All members present were seated.

Attorney Peter Alter was present to represent the applicant, along with Kevin Johnson, LA from Close Jensen & Miller, John Ianni, Registered Soil Scientist from Highland Soils, and Paul Uccello, member of Whippoorwill LLC.

Attorney Alter provided a history of this subdivision, that it was approved by both Planning & Zoning and the Inland Wetlands & Watercourses Commission (IWWC) in 1980 and significant work had begun, specifically road boxing out and utility installation. He noted failure of the town to acquire the triangular corner of Wilkus property would not allow roadway extension of Old Reservoir and the project never proceeded.

In 1990, the previous applicant appeared back in front of the IWWC and the town failed again to obtain control of the road right of way, so again the application never proceeded.

Mr. Uccello and his group acquired the property in 2013. Our Town Attorney Jack Bradley issued a determination the original subdivision approval was still valid, but the owner would need to resubmit for a new IWWC permit. Attorney Alter stated the town has still not resolved the triangular parcel into the road right of way, so the applicant would like to phase the construction and do what they can without connecting the roads. He noted the significant wetland disturbances were completed when the roadwork was started in the 1980's (approximately 2.1 acres of wetlands disturbance was previously approved by the IWWC. The remaining work is the subject of this application, with less than 5000 square feet of wetland disturbance and over 5000 square feet of wetland mitigation planned.

John Ianni, Registered Soil Scientist from Highland Soils in Coventry CT provided his credentials. He noted he flagged the wetlands in Oct 2014, and has prepared a report which is part of this testimony. He noted the wetland near Lot 6 is an isolated hillside seep with about 1 foot of water in spring, but was determined not to be a vernal pool based on his subsequent site visits in April and May of this year searching and not finding obligate species. Impact in this area is about 600 SF. He noted a minor (200 sf) impact along the driveway and noted the plans call for shrub plantings and berry producing plants as mitigation to increase habitat.

Mr. Ianni noted Lots 7 and 8 as the wettest area of the subdivision. Approximately 2000 sf filling proposed to create yards and offered similar shrub and plantings for mitigation.

He noted a former stockpile of topsoil which would be removed back to original grade and replanted with wetland seed mix.

Lastly in area of Lots 11 and 12, the applicant proposed clearing trees and shrubbery to about 25 feet to create rear yards for these lots; no wetland filling is proposed. He also proposed repairing the riprap scour holes at all the storm drainage inlets and outfalls.

Mr. Kevin Johnson, Landscape Architect with Close Jensen & Miller described the proposed erosion and sedimentation control plan, noting use of DEEP recommended and approved measures such as construction entrance, hay bales, silt fence, silt sacks, riprap. He noted the

E&S plan narrative and operation and maintenance plan notes on the drawings. All construction traffic was directed in and out via Whippoorwill Way.

Attorney Alter summarized the applicant has presented a plan which minimizes wetland impacts and provides a reasonable and prudent alternative to the original development plan, they have provided mitigation measures and confirmed there will be no change to the overall drainage patterns on site.

The Chairman asked if any residents wished to comment on the application.

Peter Luchini, 71 Whippoorwill Way noted he lived next door for 40+ years and has observed the site flooded more than the plans depict. He noted a lot of the runoff comes from the road and the town open space next door. His basement sump pump runs all the time and is concerned about the new home construction.

Thomas Fitzpatrick, 40 Whippoorwill Way noted he has lived in the neighborhood 15 years, and while he is not a hydrologist, noted poor drainage and lots of flow of water, much deeper than depicted. His concerns were 1) where is the water going to go due to poor soil conditions and shallow ledge (he noted homes on Apple Hill lose their backyards each spring) and 2) long term who is responsible for water?

Josh Grzelak, 56 Whippoorwill Way, asked the commission to consider the hill behind his home as a high point with water flowing in all directions. He noted previously CLP power losses resulted in 2 feet of water in his basement due to sump pump failure.

Ken Bradley, 74 Whippoorwill Way, also noted lots of water in the neighborhood. He stated he has 2 sump pumps running all the time and the pond behind proposed Lot 6 is full nearly all year long. He did not agree with Mr. Ianni's observation there were no amphibian life there and suggested the IWWC is there to protect the wildlife.

Phil Tougas, 5 Hawthorne Way, asked if the storm drainage pipes previously installed were clogged or stagnant. He has observed lots of wildlife- turkey, fox, deer, turtles in the property. He also expressed concern about traffic and the future roadway connection once the triangle issue is resolved.

Attorney Alter, Kevin Johnson and John Ianni replied to questions raised noting that this is a wetland application, not a groundwater application. Mr. Uccello is an experienced builder who is knowledgeable about groundwater control. New homes today offer numerous safeguards such as foundation drains and pumps to keep basements drier than those constructed 40 years ago. They noted additional yard drains being proposed to collect surface flow into the storm drainage system and that a lot of observed water was due to existing catch basins projected 2 feet above current grade. They noted minimal wetland impacts and the numerous amounts of wetlands which will remain intact. All storm pipes were noted to be cleaned.

Chairman Sanzaro closed the public hearing at 8:07 pm

## **PUBLIC MEETING**

**Application No. 658-15 E/S Whippoorwill Estates LLC, Lots 3-10 Whippoorwill Way & Lots 11-12 Old Reservoir Road, Parcels 052007, 052008, 052009, 052010, 052011, 052012, 052013, 052014, 053031 and 053032,** Application to conduct regulated activities within regulated areas with respect to completion of Whippoorwill Way, completion of installation of utilities and single family residential lot construction related to 10 lots within an approved residential subdivision within regulated areas. Also seeking Erosion and Sedimentation control certification.

Commissioner Ambrose asked Mr. Johnson to clarify the flow of water is away from the residents nearby. Mr. Johnson confirmed the general flow is southeast away from the residents..

Mr. Ianni confirmed one of the flared end outlets was disjointed and holding back water flow causing a lot of wetness. Mr. Johnson noted his surveyors removed a bike clogging the inlet.

Commissioner Kulpa asked and Attorney Alter agreed that a lot of private pipe easements were necessary and should be formalized prior to lot construction. He also recommended using perforated storm pipe where possible to dry the lots up.

Commissioner Buck noted this current application has far less wetland impact than the original 1980s application and that the applicant did a good job reducing the impacts and providing mitigation.

Commissioner Zagaja asked about the residents' inventory of the pond. Mr. Ianni noted there are turtles and other amphibians observed in the Lot 6 impoundment, but none were considered obligate species which would define the pond as a vernal pool. Mr. Ianni noted mottling in the area was at 18 inches indicating it does dry up.

Commissioner Sanzaro asked for and received clarification from Kevin Johnson that no flow will increase toward the neighbors.

Motion by Commissioner Buck to approve Application 658-15ES as a Plenary Ruling, with Stipulation that storm pipes be constructed using perforated pipe where possible, seconded by Commissioner Ambrose. All voted in favor.

Motion by Commissioner Buck to certify the Application 658-15ES E&S plan, seconded by Commissioner Ambrose. All voted in favor.

**Application No. 659-15 Allstate Power-vac, Murphy Pond . Parcel # 145052**

Application to lay an above ground bypass sewage pipe within a regulated area as part of the MDC Clean Water Project.

Mr. Tony Doherty was present to explain a proposed sanitary sewer bypass system he is looking to use as part of an MDC Clean Water Project pipe relining. He is proposing a 12 inch HDPE

welded joint pipe be pulled overland (no excavation and no filling required) thru a regulated area along Murphy Pond Dam property to allow sewer bypass from Copper mill Road.

Commissioner Kulpa asked and Mr. Doherty explained about the flushing, cleaning and disinfection of the bypass line once relining the sewers is completed.

Mr. Doherty explained he will be going to the Town Council for permission to use this land next week.

Motion by Commissioner Herold, seconded by Commissioner Buck to approve Application 659-15 as a Summary Ruling. All voted in favor.

**Application No. 660-15 Kevin Koski, 9 Meadow View Dr. Parcel # 187002**

Application to allow fill material placed as bank stabilization along the brook edge within a regulated area to remain.

Mr. Koski was present to explain he did not know the fill placement along the stream bank to stabilize it was a regulated activity. Chairman Sanzaro distributed 4 photos taken today to show the others that erosion was already taking place.

The commission expressed concern about the short term erosion which was occurring now, and the permanency of the long term solution. The Commission asked that the applicant furnish and install silt fence along the toe of the fill placement, and that the fill be regraded flatter and rye grass installed until a permanent solution was determined.

Commissioner Buck made a motion to Table the application and directed the applicant to hire professional engineer to develop a plan for permanent stabilization such as riprap; seconded by Commissioner Herold. All voted in favor.

**Application No. 661-15 John K & Sons Enterprises LLC, 282-284 Silas Deane Highway Parcel # 210009**

Application to construct new parking and direct storm water into a regulated area.

Mr. Jack Guilmartin of JL Surveying of Berlin CT was present along with John Kocur the owner, to describe their plans to construct a parking lot for proposed Cove Deli at 282-284 Silas Deane Highway.

Mr. Guilmartin described the parking plan, sheet flow of storm drainage and proposed stone filter trench. He noted there was no direct filling of wetlands, however the entire site lies within the 100 year floodplain. He noted no net loss of flood storage would result from the grading. He described the proposed erosion control measures and noted a drafting error on contour elevation.

Commissioner Kulpa recommended removing the fence along the east boundary so there was room for snow removal storage.

Commissioner Buck noted previous similar sites along the east side of Silas Deane offered a smaller 2 x 2 stone trench across the full parking lot edge. Mr. Guilmartin agreed this would work.

Motion by Commissioner Herold, seconded by Commissioner Kulpa to approve Application 661-15 as a Summary Ruling with Stipulation that corrected plans be submitted for staff approval. All voted in favor.

**Application No. 662-15 E/S Carlos Couto, 330 Middletown Ave.. Parcel # 269005**

Application for: 1) the construction of a barn directly related to the farming operation 2) the construction of a pond (less than 3 acres) essential to the farming operation, 3) the installation of drainage along the westerly boundary line of the property behind the homes fronting on Middletown Ave. within a regulated area. Also seeking Erosion and Sedimentation control certification.

Attorney Meghan Hope was present to present the application along with Kevin Johnson of Close Jensen and Miller, and owner Carlos Couto.

Attorney Hope explained the applicant was seeking a Declaratory Ruling for 1) the construction of a 40 foot by 80 foot barn directly related to the farming operation 2) the construction of a pond to be used for irrigation (less than 3 acres) essential to the farming operation, 3) the installation of storm drainage along the westerly boundary line of the property behind the homes fronting on Middletown Ave (not related to the farm operation) to intercept sump pump and roof leader drains discharging from neighbors. She noted there would be an increase in flood storage of 23 cubic yards once the final grading was completed.

Mr. Johnson explained the drawings and proposed erosion control measures. He noted the irrigation pond would contain about 3.5 feet of standing water based on test pit data.

Commissioner Kulpa noted a contour drafting error and GWT elevation note which needed correction. He was advised by the application the barn would use solar power and there was no proposed 110 volt power.

In response to Commissioner Buck's question, Mr. Couto explained the barn was for both livestock and farm equipment/tractors. He stated for the record that there would be no construction business related equipment or material storage at this site (He noted he runs a construction shop at 1012 Wethersfield Avenue in Hartford which has plenty of room). There will be water well proposed for the animals and no propane heaters.

Motion by Commissioner Herold, seconded by Commissioner Zadaja to approve the application as Declaratory Ruling with stipulation the drafting errors be corrected and submitted for staff review. All voted in favor.

## **ORGANIZATIONAL MEETING**

1. Nomination and Election of a Chairman  
Motion by Commissioner Herold seconded by Commissioner Kulpa to elect Commissioner Sanzaro as Chairman  
All voted in favor  
Motion passed
2. Nomination and Election of a Vice Chairman  
Motion by Commissioner Herold seconded by Commissioner Kulpa to elect Commissioner Owen as Vice Chairman.  
All voted in favor  
Motion passed
3. Authorization of Michael J. Turner and Don Moisa to sign notices of the Commission  
Motion by Commissioner Ambrose seconded by Commissioner Zagaja  
All voted in favor  
Motion passed
4. Appointment of Don Moisa as Designated Agent of the Commission  
Motion by Commissioner Ambrose seconded by Commissioner Herold  
All voted in favor  
Motion passed

## **GENERAL BUSINESS**

1. Approval of Minutes- June 17, 2015  
(BO,JK,LM,DA,LB,BD)  
  
Motion by Commissioner Herold, seconded by Commissioner Buck to approve the minutes. All voted in favor.
2. Correspondence (No Action Required)
  - a. "The Torrent" newsletter
  - b. Connecticut DEEP's Training for Municipal Inland Wetlands Agencies  
(a voucher is available for anyone who is interested)
  - c. Hand outs from June 19, 2015 Municipal Wetlands Training Program
    - Recent Court Cases
    - General Statutes
    - 2015 Legislation
    - NRCS: What's Happening with Connecticut Soils
    - When can an applicant submit a municipal inland wetlands application to DEEP

Mike Turner asked that if commissioners were interested in attending the DEEP training that they contact Don Moisa.

**ADJOURNMENT**

Motion by Commissioner Buck, seconded by Commissioner Herold to adjourn the meeting.  
Chairman Sanzaro Adjourned the meeting at 9:02 pm.

I hereby certify that the above is a true copy of the minutes approved by the Inland Wetlands & Watercourses Commission.

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Don Moisa, Wetlands Agent

Date